



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,812	07/05/2003	Daniel Smith		6835

7590 05/12/2004

Matthew J. Peirce, Esq.  
Suite#1005  
330 S. 3rd Street  
Las Vegas, NV 89101

EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/613,812

Applicant(s)

SMITH, DANIEL

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Objections***

2. Claim 1 is objected to because of the following informalities: the word "knife" should be changed to -knife—in line 17. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Oswood.

Robinson discloses an apparatus for cutting weeds in a body of water, the apparatus comprising:

Art Unit: 3671

- (a) a trolling motor (40) having a top and a bottom,
- (b) a handle attached to the top of the trolling motor (40),
- (c) a shaft (13) having two ends, a top end and a bottom end, the top end of the shaft (13) attached to the bottom of the trolling motor (40),
- (d) a base (11) having two ends, a first end (at 11, figure 1) and a second end (at 20, figure 1), the base (11) being cylindrical in shape, the bottom end of the shaft (13) attached to the base (11) between the first end (at 11) and the second end (at 20) of the base (11),
- (e) a propeller base (17) axially attached to the second end (at 20) of the base (11), the propeller base (17) being rotatable,
- (f) a plurality of propeller blades (19) attached to the propeller base (17), the propeller blades (19) being evenly dispersed around the perimeter of the propeller base (17),
- (g) a tail fin (47) attached to the base (11) near the second end (at 20) of the base (11),
- (h) a pair of knives (25) comprising a first knife and a second knife (see column 4, lines 49-51), each knife (25) having two ends, a dull end (26) and a sharp end (35),
- (i) at least one clamp (29) for securing the dull end of each knife (26) to the base (11), wherein each of the knives (180, see figure 4) is one-hundred eighty degrees from the other knife (35), and further wherein the sharp end (35) of each knife extends away from the base (11),
- j) wherein forward movement of the base (11) causes the propeller blades (19) to move weeds within a body of water against the knives (35), thereby cutting the weeds, as per claim 1.

However, Robinson fails to disclose wherein each knife has a forty-five degree bend about one-fourth the distance between the sharp end and the dull end, the bend on each knife being closer to the sharp end than the dull end, as per claim 1; and

Art Unit: 3671

wherein the apparatus includes two clamps for securing the dull end of each knife to the base, as per claim 2; and

wherein one of the two clamps is located between the first end of the base and the shaft and the other clamp is located between the second end of the base and the shaft, as per claim 3; and

wherein both of the clamps are located in between the first end of the base and the shaft, as per claim 4.

Oswood discloses a similar weed cutting apparatus wherein each knife (A) has a forty-five degree bend (see figure 1) about one-fourth the distance between the sharp end and the dull end, the bend on each knife being closer to the sharp end than the dull end, as per claim 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the forty-five degree bend of Oswood on the knives of Robinson in order to form the cutting arm.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include two clamps as per claim 2 since it has been held that mere duplication of parts of a device involves only routine skill in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate once clamp between the first end of the base and the shaft and the other clamp located between the second end of the base and the shaft, as per claim 3, or located both clamps in between the first end of the base and the shaft, as per claim 4, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Art Unit: 3671

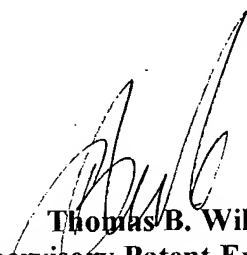
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bursvik, Newman, and Pepke et al. have been cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
May 10, 2004